IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1929 OF 2005

Sidhaling Shankar Jangam & Ors. ..Petitioners.

Versus

Virupaksha Anna Lupne & Ors. ..Respondents.

Mr.S.Sakhare with J.P.Kharge for the Petitioners.

CORAM : S. A. BOBDE, J.
DATED : 06TH OCTOBER, 2005.

P.C.:

1. The petition is directed against an order dated 24.11.2004 by which the learned second Additional District Judge, Sangli has rejected the petitioners' application for condonation of delay in filing the appeal. The proposed appeal is under section 72 of the Bombay Public Trust Act against an order passed by the Charity Commissioner dated 13.05.1996. The petitioners filed an appeal alongwith an application for condonation of delay on 20th September, 2001 and claimed that they were not aware of the order passed under the Scheme Application No.209/ 1996 dated 13.05.1996. According to the learned counsel for the petitioners, the petitioners became aware of the proposed sale of the property of the Trust somewhere on 30th January, 2000. It is

clear that even immediately thereafter, they did not file an appeal within a reasonable period but have filed, as stated above, in September, 2001. The petitioners have contended that the learned 2nd Additional District Judge has found that there is a variance between the petitioners' pleading and their affidavit. The petitioners have contended that the petitioners came to know about the order dated 13.05.1996 in the year, 2001 but were not aware that such an order could be challenged and in the affidavit, the petitioner No.3 Sadashiv M. Jangam stated that according to the period of limitation prescribed for an appeal, it was necessary to file an appeal under section 72 of the Act within a period of two months but they were not aware or the knowledge of the decision in the scheme application. In the cross-examination the petitioner No.3 -Sadashiv admitted that a public notice of the said proceedings was issued. There is no statement in the application that no public notice was issued or if it was issued, they have not come across the said notice. In the circumstances, the 2nd Additional District Judge, Sangli, has found it appropriate to refuse to condone the delay. I see no error of law apparent on the face of the order which is based on the finding of fact that the petitioners were aware of the order passed in

the said scheme and yet they did not take steps within a reasonable time. There is thus no reason to interfere with the impugned order which refuses to condone the delay for a period of 5 years, 4 months and 7 days.

2. The petition is, therefore, dismissed.

DT. 06.10.05 (S.A.BOBDE,J)

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